

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2014-__

INTRODUCED BY:

Mayor Javier Gonzales

Councilor Peter Ives

Councilor Bill Dimas

AN ORDINANCE

RELATING TO THE *CITY OF SANTA FE UNIFORM TRAFFIC ORDINANCE*; AMENDING THE PROVISIONS REGARDING ENGAGING IN A CALL WHILE DRIVING AND TEXTING WHILE DRIVING; AND AMENDING THE TRAFFIC VIOLATION PENALTY SCHEDULE TO DOUBLE THE PENALTY ASSESSMENT FOR USING A MOBILE COMMUNICATION DEVICE WHILE DRIVING AND TO TRIPLE THE PENALTY ASSESSMENT FOR USING A MOBILE COMMUNICATION DEVICE WHILE DRIVING IN A SCHOOL ZONE.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Section 1. Section 12-6-12.18 of the Uniform Traffic Ordinance (being Ord. #2006-34, as amended) is amended to read:

12-6-12.18 PROHIBITED ACTIVITIES WHILE DRIVING.

A. No person shall:

(1) drive a vehicle while engaged in any activity which interferes with the safe operation of the vehicle;

(2) drive while having in his lap any adult person, adult or minor, or any animal;

(3) drive while seated in the lap of another person while the vehicle is in motion;

(4) drive a vehicle while having either arm around another person;

(5) operate a motor vehicle's equipment, including but not limited to the vehicle horn or lights, in such a manner as to distract other motorists on the public way or in such a manner as to disturb the peace[; or

~~(6) — except as provided in subsection D. below, operate a vehicle upon a public street or highway while using a mobile telephone to engage in a call or create, send or read text messages].~~

B. Except as provided in subsection E. below, no person shall use a handheld mobile communication device while driving a motor vehicle to:

(1) engage in a call to receive and transmit voice communication; and

(2) read or view a text message or manually type on a handheld mobile communication device for any purpose.

~~[B]~~C. For the purposes of Section 12-6-12.18, the following definitions apply:

(1) "Driving" means being in actual physical control of a motor vehicle on a highway or street and includes being temporarily stopped because of traffic, a traffic light or stop sign or otherwise, but "driving" excludes operating a motor vehicle when the vehicle has pulled over to the side of or off of an active roadway and has stopped at a location in which it can safely remain stationary;

(2) "Engage in a call" [-] means talking into, dialing or listening on a hand-held mobile [telephone] communication device.

~~[(2)]3~~ ~~[HAND HELD MOBILE TELEPHONE. A mobile telephone with which a user engages in a call]~~ "Handheld mobile communication device" means a wireless communication device that is designed to engage in a call and receive and transmit voice, text

1 or image communication, using at least one hand (or prosthetic device or aid in the case of a
2 physically disabled person).

3 ([3]4) “Hands-free mobile ~~[telephone]~~ communication device”~~].—A mobile~~
4 ~~telephone]~~ means a wireless communication device that has an internal feature or function, or
5 that is equipped with an attachment or addition, whether or not permanently part of such
6 mobile ~~[telephone]~~ communication device, by which a user engages in a call without the use
7 of either hand (or prosthetic device or aid in the case of a physically disabled person),
8 whether or not the use of either hand (or prosthetic device) is necessary to activate, deactivate
9 or initiate a function of such ~~[telephone]~~ communication device.

10 ~~[(4)—MOBILE TELEPHONE. The device used by subscribers and other users of~~
11 ~~wireless telephone service to access such service and shall include personal digital assistants.]~~

12 (5) “Non-travel lane ~~[-The]~~ means the berm or shoulder of a street or highway.

13 (6) “Text message means a digital communication transmitted or intended to be
14 transmitted between communication devices and includes electronic mail, an instant message,
15 a text or image communication and a command or request to an internet site; but "text
16 message" excludes communications through the use of a computer-aided dispatch service by
17 law enforcement or rescue personnel. ~~[PERSONAL DIGITAL ASSISTANT. A device~~
18 ~~operated using a wireless telecommunications service that provides for data communication~~
19 ~~other than by voice.~~

20 ~~(7)—WIRELESS TELEPHONE SERVICE. Two way real time voice~~
21 ~~telecommunications service that is interconnected to a public switched telephone network and~~
22 ~~commonly referred to as cellular service or personal communication service.]~~

23 [C]D. An operator of a motor vehicle who holds a mobile ~~[telephone]~~ communication
24 device to, or in the immediate proximity of, his or her ear is presumed to be engaging in a call within
25 the meaning of this Section. The presumption established by this Section is rebuttable by evidence

tending to show that the operator was not engaged in a call. Immediate proximity shall mean that distance as permits the operator of a mobile ~~[telephone]~~ communication device to hear telecommunications transmitted over such mobile ~~[telephone]~~ communication device, but shall not require physical contact with such operator's ear.

~~[D]E.~~ ~~[Subsection A.(6)]~~ Paragraph B. above shall not apply to:

(1) The use of a mobile ~~[telephone]~~ communication device for the sole purpose of communicating with any of the following regarding an emergency situation: an emergency response operator; a hospital, physician's office or health clinic; an ambulance company or corps; a fire department, district or company; or a police department;

(2) The use of a hands-free mobile ~~[telephone]~~ communication device when being used in a hands free manner; or

(3) The use of a hands-free mobile ~~[telephone]~~ communication device when being used in a non-travel lane.

(4) The use of an amateur radio by a driver who holds a valid amateur radio operator license issued by the federal communications commission.

Section 2. Traffic Violation Penalty Assessment, Schedule A of the City of Santa Fe Uniform Traffic Ordinance (being Ord. #2006-34, as amended) is amended to include the following amendments:

Prohibited Activities While Driving (including hand held mobile [telephone] <u>communication device</u> use)	12-6-12.18	[\$100.00] <u>\$200.00</u>
<u>Mobile communication device use</u> <u>while driving in a school zone</u>	<u>12-6-12.18</u>	<u>\$300.00</u>

1 APPROVED AS TO FORM:

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